HIGH COURT OF UTTARANCHAL, AT NAINITAL

Criminal Misc. Application No.159 of 2006

V.B. Pandey
S/o late Sri Satya Bhushan Pandey
R/o 5/C Vasant Enclave
Dehradun .....Applicant

Versus

1. State of Uttaranchal
2. Promod Chandra Kukreti
   S/o late Sri K. C. Kukreti
   R/o 42 Kishan Nagar
3. Kaulagarh Road, Dehradun
   Sri Mukul Kukreti
   S/o late Sri G.C.Kukreti
   R/o Modal Colony
   Aaradhar Dehradun .....Respondents

Sri Arvind Vashist learned counsel for the applicant.
Sri G.S. Sandhu learned A.G.A.

Hon'ble J.C.S. Rawat, J.

1. The petition under section 482 Cr.P.C. has been filed for quashing the proceedings and order dated 14.2.2006 passed by the Judicial Magistrate, CBI, Derhadun in Case No.2024/2005 State Vs. Vijai Bhushan Pandey and others.

2. Brief facts of the case are that the case under sections 323, 504, 506 IPC is pending before the court below and the court issued the proclamation under sections 82 & 83 Cr.P.C. against the applicant. The respondent No.2-complainant filed a compromise petition before the court below alleging therein that now the parties have settled their dispute amicably outside the court and as such he do not want to proceed with the case. Therefore, the case may be disposed of accordingly. But, the trial court rejected the said

application on the ground that the non-bailable warrants and the process under section 82 & 83 Cr.P.C. had been issued against the accused.

3. If the parties have come to compromise, the Magistrate should have seen as to whether the offences are compoundable or not. The court should have directed to verify the compromise if the offences would have been found to be compoundable. It is well settled principle of law that the court has power to decide the compoundable offence by way of compromise.

4. In view of the above, the order dated 14.2.2006 passed by the Judicial Magistrate, CBI, Dehradun in case No.2024/2005 is bad in the eyes of law. The parties are directed to appear before the Magistrate and the Magistrate will find out whether the offence is liable to be compounded or not. If the Magistrate is of the view that the offence is compoundable, he will record the compromise in accordance with law.

5. However, it is made clear that the Magistrate will not be influenced by the order that the non-bailable warrants and a process under section 82 & 83 Cr.P.C. had been issued against the applicant.

6. In view of the above, the petition is disposed of accordingly.

(J.C.S. RAWAT, J.)

Dated 09.03.2006

LSR